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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 09/767,892      | 01/22/2001  | Vincent P. Stanton JR. | 11926-006001        | 2553             |
| 26161           | 7590        | 05/06/2003             |                     |                  |

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EXAMINER

SHEINBERG, MONIKA B

ART UNIT PAPER NUMBER

1634

DATE MAILED: 05/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.



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|---------------------------------|-------------|---|---------------------|
| APPLICATION NO./<br>CONTROL NO. | FILING DATE | FIRST NAMED INVENTOR /<br>PATENT IN REEXAMINATION | ATTORNEY DOCKET NO. |
|---------------------------------|-------------|---|---------------------|

EXAMINER

ART UNIT      PAPER

0403

DATE MAILED:

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Commissioner of Patents and Trademarks

## Notice of Non-Responsive Amendment

The reply filed on 21 February 2003 is not fully responsive to the Office communication mailed: 17 September 2002, because the amendment filed on 9 July 2002 canceled all claims drawn to the elected invention and presented only claims drawn to a non-elected invention is non-responsive (MPEP § 821.03). The remaining claims are not readable on the elected invention. The Non-Responsive Amendment status is maintained and reiterated from the previous Office communication. The newly submitted claims 17-23 are not readable on the elected invention because, they are directed to the identification of a **drug response** phenotype as a consequence of genetic variation, while the elected claims are directed to identification of phenotypes that vary among cell lines as a consequence of genetic variation. Applicants' argue the drug response phenotype is a specification of which phenotype intended. However, none of the originally presented claims, elected or non-elected, demonstrated any indication of drug response phenotypes, the presence of drug interactions, or the drug inducement for determination of drug response phenotypes.

Since the above-mentioned amendment appears to be a *bona fide* attempt to reply, applicant is given a TIME PERIOD of ONE (1) MONTH or THIRTY (30) DAYS, whichever is longer, from the mailing date of this notice within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD UNDER 37 CFR 1.136(a) ARE AVAILABLE.

### Inquiries

Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993) (See 37 CFR § 1.6(d)). The CM1 Fax Center number is (703) 308-4242.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monika B. Sheinberg, whose telephone number is (703) 306-0511. The examiner can normally be reached on Monday-Friday from 9 A.M to 5 P.M. except Wednesdays. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jones, can be reached on (703) 308-1152.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to Patent Analyst, Chantae Dessau, whose telephone number is (703) 605-1237, or to the Technical Center receptionist whose telephone number is (703) 308-0196.

April 25, 2003  
Monika B. Sheinberg  
Art Unit 1634

*MBS*

*Gary Benzion*  
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